

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

MARCUS T. BARTOLE,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

CAUSE NO. 2:25-CV-1 DRL-SJF

OPINION AND ORDER

Marcus T. Bartole, a prisoner without a lawyer, initiated this civil case by filing a motion to return property under Fed. R. Crim. P. 41(g) and to unseal federal grand jury proceedings. ECF 2. He also filed a motion to proceed in this case *in forma pauperis*. ECF 4. A motion under Fed. R. Crim. P. Rule 41(g) “is a civil action for purposes of the [Prison Litigation Reform Act].” *United States v. Stevens*, 500 F.3d 625, 629 (7th Cir. 2007).

Review of Mr. Bartole’s litigation history indicates that he has accrued three strikes under the Prison Litigation Reform Act. *See Bartole v. State of Indiana*, 3:24-cv-633 (N.D. Ind. filed July 29, 2024); *Bartole v. Doe*, 2:23-cv-242 (N.D. Ind. filed July 10, 2023); *Bartole v. Hughes*, 2:22-cv-257 (N.D. Ind. filed Aug. 31, 2022). Therefore, he may not proceed *in forma pauperis*, except for claims alleging that he is in imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g). To meet the imminent danger standard, the threat complained of must be real and proximate. *Ciarpaglini v. Saini*, 352 F.3d 328, 330 (7th Cir. 2003). Only “genuine emergencies” qualify as a basis for circumventing Section 1915(g). *Lewis v. Sullivan*, 279 F.3d 526, 531 (7th Cir. 2002).

In the motion initiating this case, Mr. Bartole asserts that he needs the information that has been obtained through searches or that has been presented at federal grand jury proceedings in order to litigate his state criminal case. These criminal proceedings may result in serious consequences to Mr. Bartole, but they do not suggest that he is in imminent danger of serious physical injury. Indeed, there is nothing unusual about ongoing criminal proceedings in the context of prison litigation. Therefore, the court denies the motion for leave to proceed *in forma pauperis*. Mr. Bartole must pay the filing fee in full before he can proceed with this lawsuit.

For these reasons, the court:

- (1) DENIES the motion for leave to proceed *in forma pauperis* (ECF 4);
- (2) ORDERS Marcus T. Bartole to pay the filing fee in full by February 7, 2025; and
- (3) CAUTIONS Marcus T. Bartole that, if he does not respond by that deadline, this case will be dismissed without further notice.

SO ORDERED.

January 8, 2025

s/ Damon R. Leichty  
Judge, United States District Court